

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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UNITED STATES OF AMERICA *

PLAINTIFF, *

VS. *

CV-05-1086

2:05cv1086-B

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

EIGHTY THOUSAND SIX HUNDRED
THIRTY-THREE DOLLARS *
(\$80,633.00) IN UNITED STATES CURRENCY;
FOUR THOUSAND EIGHT HUNDRED *
SEVENTY-EIGHT DOLLARS (\$4,878.00)
IN UNITED STATES CURRENCY; AND*
THIRTY-SIX THOUSAND
FIVE HUNDRED DOLLARS (\$36,500.00)*
IN UNITED STATES CURRENCY

DEFENDANTS. *

ANSWER
AND MOTION FOR RELEASE AND RETURN OF SEIZED MONEY

The claimants Michael Coleman and Jacquard Merritt, by and through the undersigned, move this Court for declaratory and injunctive relief and an Order releasing and returning to them certain personal property belonging to them unlawfully seized by the United States of America and/or its agents, the Drug Enforcement Administration, and Transportation Security Administration, to wit: approximately one hundred and twenty-two thousand eleven dollars (\$122,011.00) in lawful United States currency. Eighty thousand six hundred and thirty-three Dollars (\$80,633.00) belonging to Michael Coleman and approximately forty-one thousand three hundred seventy-eight dollars (\$41,378.00) in lawful United States currency belonging to Jacquard Merritt. As grounds the claimants show the Court the following:

JURISDICTION

Jurisdiction is conferred via 28 U.S.C.A. §1331, §1335, 21 U.S.C.A. §881, and Rule 41(g) of the Federal Rules of Criminal Procedure, and the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

FACTS

1. On or about July 5, 2005, the United States of America through its agents the Drug Enforcement Administration, Transportation and Security Administration and Montgomery Airport Police, without a warrant, seized approximately ninety thousand dollars (\$80,633.00) in lawful cash, coin, or currency of the United States of America, the property of claimant Michael Coleman and in another action at the same time, seized forty-one thousand dollars (\$41,378.00) in lawful cash, coin, or currency of the United States of America from claimant Jacquard Merritt.
2. The claimants were lawfully traveling from Montgomery, Alabama to San Antonio, Texas and lawfully carrying United States currency and conducting themselves in a lawful manner when TSA agents and Montgomery Airport Police detained them without reasonable suspicion of criminal activity and arrested them without probable cause of committing a crime.

3. The claimants were taken to a secure facility within the Montgomery Regional Airport where TSA agents, Montgomery Airport Police and Drug Enforcement Administration Agents unlawfully interrogated them without the benefit of counsel, seized their luggage and searched their luggage without a warrant and without their consent. Approximately eighty-thousand (\$80,000.00) dollars in United States Currency was found in the possession of Michael Coleman and forty-one thousand (\$41,000.00) dollars was found in the possession of Jacquard Merritt.
4. The search and seizure of the claimants was void of exigent circumstances coupled with probable cause, and in violation of the claimants' rights under the Forth Amendment to the United States Constitution.
5. The United States Drug Enforcement Administration unlawfully took possession of the claimants' money, without a warrant, by force and without their consent, in violation of the Fourth Amendment to the United States Constitution.
6. From the date of the seizure until the present time there had been no prompt judicial proceeding for its proper and lawful forfeiture.
7. The claimants are the lawful and equitable owners of the money made the subject of this proceeding. (See Exhibits A and B.) The claimants have informed the Drug Enforcement Administration of this fact via telephone and written communiqué.
8. Although the claimants have continue to lay claim to the money, it remains in the custody of the United States of America Drug Enforcement

Administration, therefore interfering with and preventing claimants' right of dominion over and use of the money and thereby depriving him of his property without due process of law in violation of the Fourteenth Amendment of the United States Constitution and Article I, Section VI of the Alabama Constitution.

9. The claimants have demanded that the plaintiff return their property in person and through their attorney of record and such demands have been refused.
10. The claimants have been left destitute due to the unlawful activity of the plaintiff and her agents and currently suffering irreparable harm having been deprived of the means in which to care for themselves and their families.
11. The claimants of the property subject to this action categorically deny any and all assertions, articulated or implied by the plaintiff that the seized money was used or was intended to be used in a manner prohibited by Title 28 U.S.C.A. 881(a)(6).

DEMAND FOR JUDGMENT

The owners demand judgment under the following terms:

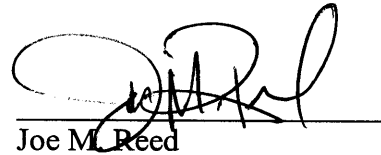
1. Declaration that the conduct of the Plaintiff violated the rights of the Michael Coleman and Jacquard Merritt under the appropriate constitutional amendments and;

2. That the Plaintiff's agents be enjoined from harassing, intimidating, threatening or otherwise interfering with the lawful travel habits of the plaintiffs, and;
3. Mandatory injunctive relief requiring the defendants to immediately restore the defendant their property and;
4. Costs, and;
5. Such other relief as the Court may deem appropriate, the premises considered.

Wherefore, claimant prays that this Court conduct a hearing on this matter and after the hearing enter its Order restoring all rights to and possession of the money to the claimant.

Date: 1/11/06

Address of Counsel:
524 S. Union St.
Montgomery, AL 36104
(334) 834-2000 t
(334) 834-2088 f




Joe M. Reed
Attorney for ~~Plaintiffs~~
Claimants

CERTIFICATE OF SERVICE

I herby certify that the following was served on

The Honorable John T. Harmon,
United States Attorney for the Middle District of Alabama,
1 Court Square
Montgomery, Alabama 36104



Joe M. Reed